

ORIGINAL

EX PARTE OR LATE FILED



AT&T

Frank S. Simone  
Government Affairs Director

Suite 1000  
1120 20th Street, N.W.  
Washington, DC 20036  
202 457-2321  
FAX 202 457-2545  
EMAIL fsimone@att.com

February 18, 2000

RECEIVED

MAY 04 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S. W. - Room TWB-204  
Washington, D. C. 20554

Re: Ex parte, CC Docket No. 98-147, Deployment Of Wireline Services Offerings Advanced Telecommunications Capability; CC Docket No. 00-4, Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region InterLATA Services in Texas; CC Docket No. 96-98, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; CC Docket No. 00-50, Petition of NewPath Holdings, Inc. For an Expedited Declaratory Ruling on the Scope of Unbundled Access to the High-Frequency Portion of Loops; CC Docket No. 98-141, Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor, to SBC Communications Inc., Transferee

Dear Ms. Salas:

On Thursday, May 3, 2000, Richard Rubin, C. Michael Pfau and the undersigned of AT&T and James Casserly of Mintz Levin Cohn Ferris Glovsky and Popeo met with Margaret Egler, Jessica Rosenworcel and William Dever of the Common Carrier Bureau's Policy and Program Planning Division. The purpose of the meeting was to discuss AT&T's written comments in the Commission's line sharing reconsideration proceeding and in the Texas 271 proceeding regarding the provisioning of DSL service to customers served over the unbundled network element platform.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206 (b) of the Commission's rules.

Sincerely,

ATTACHMENT

cc: M. Egler  
J. Rosenworcel  
W. Dever



Recycled Paper

# DSL - On The Critical Path To Full Competition

AT&T Presentation to the FCC

May 3, 2000

# DSL Issues are Ripe for Decision

- Line Sharing Order
- UNE Remand Order
- SBC Texas 271 Application
- SBC/Ameritech Merger Conditions
  - Request for Clarification/Waiver
  - OSS Plan of Record
- NewPath Petition
- Lack of a Decision Will Impact State Proceedings
  - New York
  - California
  - Georgia

# Access to Data Service Capabilities is Critical to Competition

- A carrier's ability to provide DSL service affects competition in all phases of the telecommunications services market, including voice, data and bundled voice/data services
- ILECs themselves acknowledge that it is critical to have a DSL offer available as part of a full service package
  - E.g., SBC states that its DSL service provides “a powerful way to retain and attract customers” and that its Project Pronto means “only SBC will have all the pieces to provide end-to-end service”
- All major ILECs have announced DSL strategies and entry plans, and Wall Street carefully scrutinizes their results

# Access to Data Service Capabilities is Critical to Competition

- Denying UNE-P CLECs practical and nondiscriminatory access to the data capabilities of the loop stifles their ability to compete
- Consumers' only practical option for a voice/data "bundle" will require the use of ILEC voice service
- Severely reduces competition in the mass market for both voice and data services

# ILECs Have Distorted the Terms of the Line Sharing Order

- ILECs claim the Line Sharing Order affirmatively relieves them of any duty to make DSL capabilities available to UNE-P CLECs
- ILECs have used this interpretation to single out UNE-P CLECs and refuse to allow them to offer customers the ability to obtain both voice and data services over the same loop
  - “HFPL is not available in conjunction with a combination of network elements known as the platform or UNE-P (including loop and switch port combinations) or unbundled local switching or any arrangement where SWBT is not the retail POTS provider” (SBC T2A Amendment § 4.7.4)
- The ILECs’ claims are both wrong and irrelevant

# The ILECs' Reading of the Line Sharing Order is Wrong

- Inconsistent with the basic pro-competitive premises of the Order
  - The Order was intended to increase, not decrease, competition
- Contrary to the nondiscrimination requirements of the Act
  - All CLECs (and ILECs and ILEC data affiliates) are entitled to receive the same access to loops to support all types of telecommunications services

# UNE-P CLECs are Already Entitled to Use the Full Loop

- The First Report and Order and Rule 51.307(c) entitle CLECs to access and use of all the capabilities of UNE loops to provide any telecommunications service
- AT&T wants access to the data functionalities of the loops it already pays full price for
- This is *not* “line sharing” under the Line Sharing Order
- AT&T merely wants ILECs to split the voice and data traffic on UNE loops, a function they perform for themselves and are required to do for data CLECs (DLECs)



# Expedited Action is Necessary to Prevent Competitive Abuse

- ILECs will continue to use their distorted reading of the Line Sharing Order to avoid their legal obligations and delay competition until the Commission provides clarification
  - Commission proceedings (Texas 271, UNE Remand, Line Sharing, SBC/Ameritech Merger)
  - Interconnection agreement negotiations
- Ongoing state proceedings (NY, CA, GA) will also benefit from immediate clarification of the ILECs' obligations

# Clarification Must Address Five Key DSL Problems

- ILEC refusals to provide nondiscriminatory operational support for UNE-P (and resale) CLECs attempting to provide voice/data bundles on a single line
- ILEC refusals to allow end users to have CLEC voice service and ILEC retail DSL service on the same line
- ILEC refusals to deploy line splitters
- Anticompetitive pricing of high frequency loop spectrum
- Potential ILEC abuse of new ILEC network architecture upgrades to avoid continuing unbundling obligations

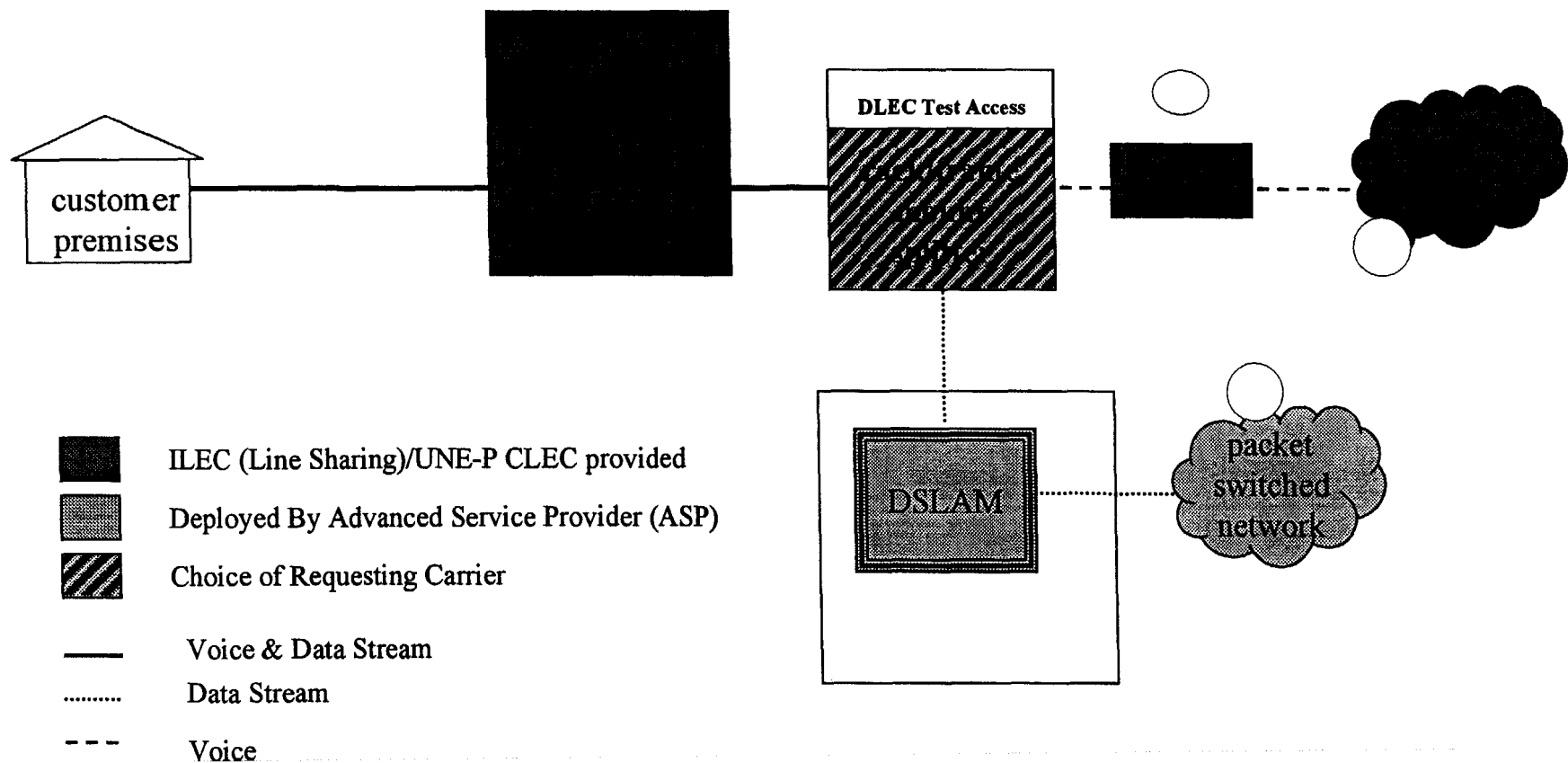
# All CLECs are Entitled to Nondiscriminatory Access

- Basic principles of nondiscrimination require that no group of carriers be denied a reasonable opportunity to provide voice/data bundles on a single loop
- Denying such capabilities to UNE-P CLECs materially affects the predominant entry strategy for the mass market
  - Walls off ILEC voice services from competition by precluding UNE-P CLECs from providing voice/data bundles
  - Increases ILEC incentives and ability to favor its own data services

# AT&T's Request for Access is Technically Feasible

- UNE-P CLECs need the same technical arrangements as data-only carriers
- SBC and GTE admitted in recent California hearings that AT&T's proposal would require the same physical work as line sharing for DLECs

# Network Architecture Need Not Differ for DLECs or UNE-P CLECs



# Network Architecture Need Not Differ for DLECs or UNE-P CLECs

- Because the same physical work is required, both DLECs and UNE-P CLECs should be able to use existing voice loops to provide DSL services on the same timeline
- Line sharing agreements for DLECs are already being worked out and publicized (e.g., U S WEST agreement), but ILECs are not allowing UNE-P CLECs to participate in similar arrangements
- Any administrative process changes necessary to support UNE-P CLECs (or DLECs) can be worked out afterwards and applied retrospectively, particularly for working lines (e.g., U S WEST agreement makes such allowances)

# ILEC Denials of Access to ILEC DSL Service

- ILECs refuse to permit end user customers to obtain ILEC DSL services on UNE-P loops - they require customers to buy ILEC voice service
- UNE-P/ILEC DSL arrangements are technically feasible
- The ILECs' refusals are discriminatory and anticompetitive, especially while ILECs prevent UNE-P carriers from providing DSL services over their own loops

# ILECs Must Deploy Splitters upon CLEC Request

- Splitters are part of the loop element, not a separate UNE
  - Loops include attached electronics (other than DSLAMs, etc. used to provide data service)
  - Splitters are passive electronic devices attached to the loop that perform frequency splitting and filtering functions; SBC/Ameritech Merger Conditions forbid transfer of such splitters to SBC's data affiliate
- ILEC deployment of splitters is lawful and technically feasible
  - Current rules permit ILECs to retain control of splitters
  - GTE agrees to own splitters for DLECs; SBC is “volunteering” to do so



# ILECs Must Deploy Splitters upon CLEC Request

- ILEC deployment is the only practical means for the ILEC itself to provide High Frequency Loop Spectrum as a UNE
- Requiring CLECs to own splitters actually requires CLECs to unbundle the HFPL
- ILECs argued that ILEC ownership and control of the splitter was essential
  - Consistent with ILEC demands in virtually all other contexts (e.g., UNE combinations, collocation) that they retain control over access to their network equipment and facilities

# ILECs Must Deploy Splitters upon CLEC Request

- ILEC deployment allows the ILEC to control the quality of voice service it delivers for itself and for CLECs that use UNEs or resale
  - Assures voice test access and, if necessary, allows data service interruption without voice service interruption
- The splitter is a technically feasible point of interconnection between the network elements of the ILEC and the packet switching network of a CLEC
  - ILEC deployment of splitters mitigates issues of CLEC-to-CLEC interconnection arguably raised by the Collocation Order remand

# Common Splitters are the Most Efficient Option

- ILEC deployment of common splitters should be the preferred option
  - Minimizes service quality discrimination due to splitter location - all carriers' loops are treated the same
  - Permits the most efficient use of assets, including both splitters and floor space
  - Permits change in DSL providers with no disruption of customers' voice service
- GTE has recommended common splitter deployment; SBC has "volunteered" it

# HFPL Pricing

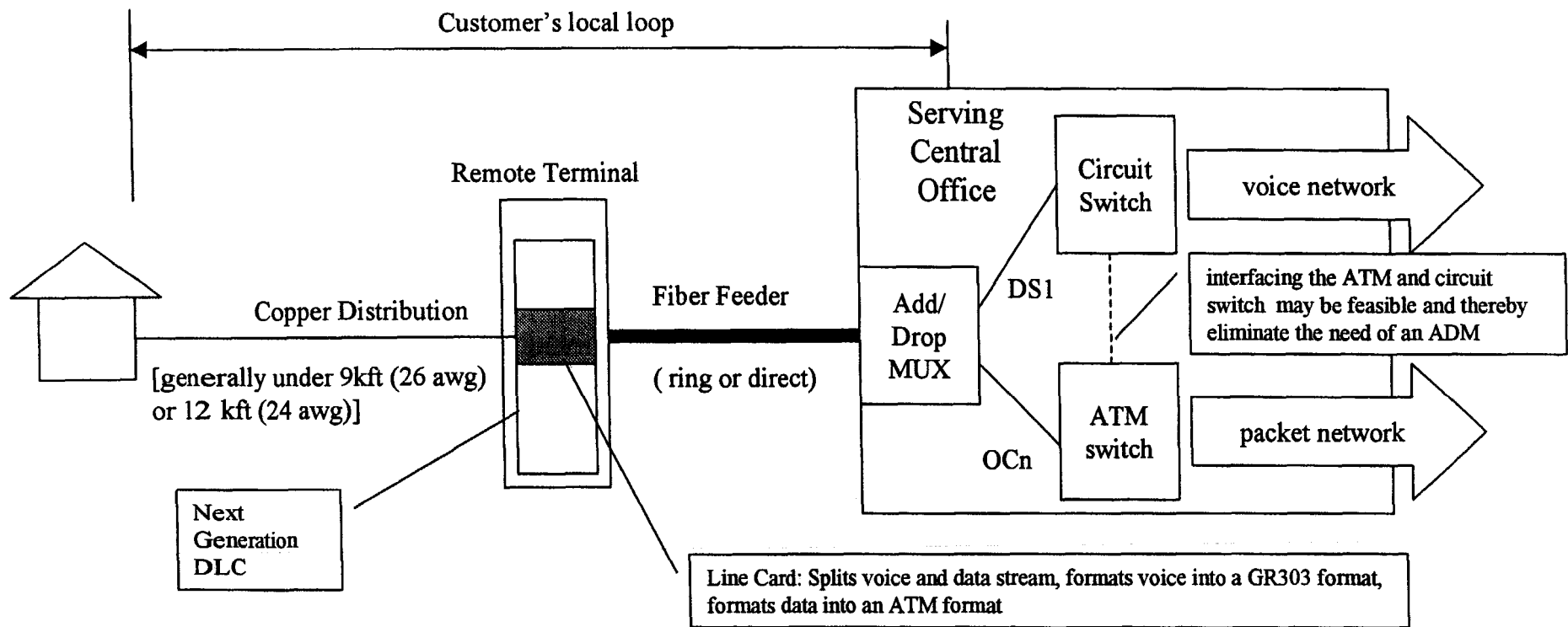
- DLECs (and some ILECs) propose a zero recurring rate for the use of HFPL
- Such pricing violates the Commission's cost allocation requirements for common plant
- Leads to significant anticompetitive effects

# Impacts of New ILEC Network Design

- Extends feeder plant to make shorter copper subloops, allowing for greater market reach and higher bandwidth capabilities
- Creates opportunities for ILECs to limit CLECs' ability to offer comparable services and to manipulate CLEC costs

# New ILEC Network Design

- New ILEC Network Architecture Does Not Relieve ILECs From Their Unbundling Obligation



# Anticompetitive Impacts

- New architecture limits CLECs' ability to collocate at remote terminals
  - Both BellSouth and SBC acknowledge extremely limited collocation possibilities
- May preclude CLECs from offering comparable speed DSL services (or any service at all)
- Also provides ILECs opportunities to manipulate CLEC costs for DSL service inputs
  - Catena ex parte describes economic inefficiencies for CLECs

# Possible Solutions

- Assure CLECs greater opportunities to obtain access to copper subloops at remote terminals
- Assure availability of equipped loops as required by the UNE Remand Order
- Prohibit manipulation of element definitions and other Commission rules to create discriminatory costs for CLECs



# Conclusion

- Immediate resolution of these DSL issues is necessary to
  - Clarify confusion created by the ILECs as a result of the Line Sharing Order
  - Assure a fully competitive marketplace for both voice services and voice/data bundles
  - Provide guidance for ICA negotiations and State arbitration proceedings
  - Avoid ILEC-created market distortions
  - End unlawful discrimination